

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sara Griffin	Team: Squad #4	CCRB Case #: 201807481	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 08/31/2018 11:45 AM	Location of Incident: § 87(2)(b)	Precinct: 108	18 Mo. SOL 2/29/2020	EO SOL 2/29/2020	
Date/Time CV Reported Fri, 08/31/2018 7:30 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/11/2018 11:15 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Diego Dotres	524	928217	108 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jorge Perez	12249	951042	108 PCT
2. POM Jonathan Aves	19127	932128	108 PCT
3. POM Andrew Ali	12217	957324	108 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Diego Dotres	Abuse: Sergeant Diego Dotres threatened to damage § 87(2)(b)'s property.	§ 87(2)(b)
B.SGT Diego Dotres	Abuse: Sergeant Diego Dotres refused to provide his name to § 87(2)(b)	§ 87(2)(b)
C.SGT Diego Dotres	Abuse: Sergeant Diego Dotres refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)

Case Summary

On August 31, 2018, § 87(2)(b) called IAB and filed the following complaint. On August 31, 2018, at approximately 11:45 a.m., Sergeant Diego Dotres of the 108th Precinct responded to § 87(2)(b) in Queens after being requested by employees of a social service agency. Sgt. Dotres threatened to damage § 87(2)(b)'s front door (**Allegation A-Abuse of Authority**, § 87(2)(g)). Sgt. Dotres allegedly refused to provide his name and shield number to § 87(2)(b) (**Allegation B and Allegation C-Abuse of Authority**, § 87(2)(g)).

No summonses were issued or arrests were made regarding the incident.

The incident was captured on Body Worn Camera footage.

Findings and Recommendations

Allegation A-Abuse of Authority: Sergeant Diego Dotres threatened to damage § 87(2)(b)'s property.

It is undisputed that employees of a social service agency, accompanied by a locksmith, requested police assistance after § 87(2)(b) refused to let the employees in to conduct a court ordered property check (Board Review 07). Upon arrival to the location, the employees informed Sgt. Dotres that they had a court order from the Supreme Court of the State of New York to enter § 87(2)(b)'s apartment and survey for damages. The employees also informed Sgt. Dotres that the court order provided them the authority to break § 87(2)(b)'s door to enter his apartment. The court order was presented to Sgt. Dotres. It is undisputed that Sgt. Dotres approached § 87(2)(b)'s door and spoke to him through the peephole. It is undisputed that Sgt. Dotres threatened to damage § 87(2)(b)'s front door. Later during the incident and after consulting with the New York City Police Department Legal Bureau, via telephone, Sgt. Dotres was informed that the court order did not allow the officers to make entry into the apartment.

In § 87(2)(b)'s call to IAB (Board Review 1), he alleged that Sgt. Dotres stated he would break down the front door if it was not opened. A notarized statement was obtained from § 87(2)(b) due to his physical disability and because § 87(2)(b) made a threat against members of service while on the phone with the undersigned investigator. The entire incident was captured on Body Worn Camera footage, § 87(2)(g).

Sgt. Dotres' BWC (Board Review 2), shows several social service agency employees inform Sgt. Dotres of the court order and the alleged authority the court order grants them, including gaining entry into § 87(2)(b)'s apartment by damaging property. Sgt. Dotres speaks to the employees and reviews the court order until 03:50. At 04:00, Sgt. Dotres is heard telling § 87(2)(b) "I am gonna kick the door in" and "I am gonna break the door."

Sgt. Dotres testified (Board Review 3) that he made the statements regarding damaging § 87(2)(b)'s door because he hoped it would make § 87(2)(b) open the door. Sgt. Dotres

was under the impression, at the time, that the court order gave him the authority to gain entry. Sgt. Dotres denied there were any exigent circumstances that warranted entry being made.

Patrol Guide Procedure 214-13, states that the role of a uniformed member of service when called to the scene of a civil process situation is to preserve the peace and prevent the commission of a crime. The authority to break and enter pursuant to purely civil processes is given to the city marshal/sheriff (Board Review 13).

The Fourth Amendment has drawn a firm line at the entrance to a house. Absent exigent circumstances, a threshold may not reasonably be crossed without a warrant. Payton v. New York, 445 U.S. 573 (1979) (Board Review 5).

In Onderdonk v. State, 170 Misc. 2d 155 (1996), the court ruled that officers must give due respect to property and may only damage property if doing so is reasonably necessary to carry out their duties (Board Review 4).

§ 87(2)(g)
[REDACTED]

Allegation B- Abuse of Authority: Sergeant Diego Dotres refused to provide his name to

§ 87(2)(b) [REDACTED]

Allegation C- Abuse of Authority: Sergeant Diego Dotres refused to provide his shield number to § 87(2)(b) [REDACTED]

It is undisputed that § 87(2)(b) [REDACTED] was speaking to the officers through a peephole and refused to open his front door.

In § 87(2)(b) [REDACTED]'s call to IAB (Board Review 1), he alleged that Sgt. Dotres refused to provide his name and shield number to him.

Sgt. Dotres' Body Worn Camera captured the entirety of his interaction with § 87(2)(b) [REDACTED] (Board Review 6). Between 05:00 and 08:10, Sgt. Dotres stands in front of § 87(2)(b) [REDACTED]'s door. § 87(2)(b) [REDACTED] and Sgt. Dotres talk through the door. At 07:07, Sgt. Dotres asks a female identified as § 87(2)(b) [REDACTED] who is inside § 87(2)(b) [REDACTED]'s apartment, whether she is okay. § 87(2)(b) [REDACTED] interjects and tells § 87(2)(b) [REDACTED] that she does not have to answer. At 07:30, Sgt. Dotres asks § 87(2)(b) [REDACTED] what agency she works for and § 87(2)(b) [REDACTED] does not respond. At 07:34, § 87(2)(b) [REDACTED] states, "Sergeant...5...let me see your badge number." Sgt. Dotres repeats, "What agency do you work for?" § 87(2)(b) [REDACTED] states, "Let me see your badge number, mister." Sgt. Dotres asks, "What? What?" § 87(2)(b) [REDACTED] states, "Let me see your badge number." Sgt. Dotres responds, "What agency do you... If you open up the door, you can see it." At 08:05, § 87(2)(b) [REDACTED] states, "I see a 5 on the sergeant's badge...5 something...5...2...I can't see the number on your badge."

The numbers “5, 2...” correspond to Sgt. Dotres’ shield number of “524.” Other officers speak to Sgt. Dotres simultaneously and Sgt. Dotres walks away towards the officers.

Sgt. Dotres testified (Board Review 3) that he did not remember if § 87(2)(b) requested to see his shield number, but stated that his shield was prominently displayed during the entirety of the incident and he denied physically obstructing it from § 87(2)(b) viewing it through the peephole. Sgt. Dotres did not recall if he made any extra physical effort to show § 87(2)(b) his shield through the peephole during the incident.

Patrol Guide Procedure 203-09 (Board Review 8) states that officers must courteously and clearly state their names and shield numbers, or otherwise provide them to anyone who requests them to do so.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 9).
- Sgt. Dotres has been a member of service for 17 years and has been the subject in nine CCRB complaints and 20 allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- As of January 7, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 12).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date